

have a strong leader with the power vested in him by Presidential nomination and Senate confirmation.

So I urge my colleagues to accept the President's nominee, Dr. Lester Crawford, and to vote to confirm him as the next Commissioner of Food and Drugs.

Mr. KENNEDY. Will the Senator yield another minute? Am I right, we have until a quarter of?

The PRESIDING OFFICER. The Senator from Wyoming has a minute 20 seconds remaining, the Senator from Massachusetts has 2 minutes 40 seconds.

Mr. KENNEDY. May I ask the Senator for a minute?

Mr. ENZI. Yes.

Mr. KENNEDY. Seeing who is in the chair, does the Senator not agree with me that one of the additional important responsibilities of the FDA is going to be bioterrorism? We are going to need a Commissioner at the FDA to lead this important work to prepare us against a bioterrorist attack. That is going to be enormously important. The HELP Committee has had our recent briefings on this issue, and bioterrorism is certainly an important area on which we will need the leadership of the FDA. I know the Senator from Wyoming is concerned about this bioterrorism, and the BioShield legislation, to make sure we have the vaccines and other medical products on line to respond to the dangers of bioterrorism. Bioterrorism is a pressing area in which we are going to have to work, and we need a leader at FDA to help us.

Mr. ENZI. The Senator is absolutely correct. The Presiding Officer is chairing that subcommittee and holding extensive hearings on that and bringing together some great experts to help us resolve that.

Mr. HATCH. Will the Senator yield also for just a moment? We introduced the bioshield II, the Lieberman-Hatch bill that has gone a long way to resolving this matter, and I intend to work with the Senator from North Carolina and the distinguished chairman and ranking member to see if we can bring this to a conclusion that works.

I thank the chairman.

Mr. ENZI. Mr. President, I yield any remaining time we have. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The question is, Will the Senate advise and consent to the nomination of Lester M. Crawford, of Maryland, to be Commissioner of Food and Drugs, Department of Health and Human Services. On this question, the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. COBURN), the Senator from Arizona (Mr. MCCAIN), and the Senator from Alaska (Ms. MURKOWSKI).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr.

CORZINE), the Senator from Connecticut (Mr. DODD), and the Senator from Arkansas (Mrs. LINCOLN) are necessarily absent.

The PRESIDING OFFICER (Mr. CORNYN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 78, nays 16, as follows:

[Rollcall Vote No. 190 Ex.]

YEAS—78

Akaka	Dole	Lott
Alexander	Domenici	Lugar
Allard	Ensign	Martinez
Allen	Enzi	McConnell
Bayh	Feingold	Nelson (FL)
Bennett	Feinstein	Nelson (NE)
Biden	Frist	Pryor
Bingaman	Graham	Reed
Bond	Gregg	Reid
Brownback	Hagel	Roberts
Bunning	Harkin	Rockefeller
Burns	Hatch	Salazar
Burr	Hutchison	Santorum
Byrd	Inhofe	Sarbanes
Carper	Inouye	Sessions
Chafee	Isakson	Shelby
Chambliss	Jeffords	Smith
Cochran	Johnson	Specter
Coleman	Kennedy	Stevens
Collins	Kerry	Sununu
Conrad	Kohl	Talent
Cornyn	Kyl	Thomas
Craig	Landrieu	Thune
Crapo	Leahy	Voinovich
DeMint	Levin	Warner
DeWine	Lieberman	Wyden

NAYS—16

Baucus	Durbin	Schumer
Boxer	Grassley	Snowe
Cantwell	Lautenberg	Stabenow
Clinton	Mikulski	Vitter
Dayton	Murray	
Dorgan	Obama	

NOT VOTING—6

Coburn	Dodd	McCain
Corzine	Lincoln	Murkowski

The nomination was confirmed.

The PRESIDING OFFICER. The President will be notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

DEPARTMENT OF STATE, FOREIGN OPERATIONS, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2006—Continued

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to set aside the pending amendment for the purpose of offering an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1250

Mr. GRASSLEY. Mr. President, I am going to offer an amendment. Before I send it to the desk, I want to speak to the amendment.

In March of 2004, the Export-Import Bank approved the issuance of \$9.87 million in taxpayer-guaranteed credit insurance to help Angostura Holdings Limited, of Trinidad and Tobago, to finance the construction of an ethanol dehydration plant in Trinidad. The

purpose of this credit insurance was to enable Angostura to purchase equipment to be used to dehydrate up to 100 million gallons of Brazilian ethanol annually. Angostura would then reexport the resulting dehydrated ethanol to the United States duty free under the current Caribbean Basin Initiative Trade Preference Program.

The credit insurance approval, however, had one major flaw. It appeared to violate the Export-Import Bank's authorizing statute. I want to explain that statute.

Section 635(e) of the Export-Import Bank's authorizing statute—that is the Export-Import Bank Act of 1945—states that the bank is not to provide credit or financial guarantees to expand production of commodities for export to the United States if the resulting production capacity is expected to compete with U.S. production of the same commodity and the extension of such credit will cause substantial injury—I emphasize “substantial injury”—to U.S. producers of the same commodity.

The statute goes on to provide that “the extension of any credit or guarantee by the Bank will cause substantial injury if the amount of the capacity for production established, or the amount of the increase in such capacity expanded, by such credit or guarantee equals or exceeds 1 percent of United States production,” with emphasis upon exceeding 1 percent of United States production.

I want to go back to last year then. As of last year, when the credit guarantees for Angostura were approved, the total 100 million gallon capacity of the Angostura facility was nearly 4 percent of U.S. production. This amount clearly then exceeds the 1 percent threshold for causing substantial injury to the U.S. ethanol industry as spelled out in the Export-Import Bank's authorizing statute.

I want to make clear, we are not talking about changing existing policy. We are talking about not letting somebody use subterfuge to get around existing law. It appeared to me that the approval of credit guarantees for Angostura by the Export-Import Bank violated the bank's authorizing statute. Moreover, as the amount financed by the Export-Import Bank was less than \$10 million—remember, we are talking about \$9.87 million—there was no detailed economic impact analysis conducted by the bank. So it seems to me they were conveniently under the \$10 million threshold as a way of muddying the waters, camouflaging this transaction, not drawing attention, not even taking their official look at the requirements of the statute by being about \$130,000 under the \$10 million threshold, hoping that somehow this would get by without our finding out about it.

In the Consolidated Appropriations Act of 2005, Congress asked the Export-Import Bank for an explanation of the credit guarantees for Angostura. Specifically, the 2005 Act required the Export-Import Bank to submit a report to